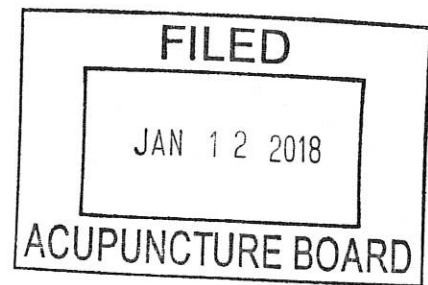


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10 **BEFORE THE**
11 **ACUPUNCTURE BOARD**
12 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

13 In the Matter of the Accusation Against:

Case No. 1A-2017-150

14 **BYUNG MO AHN, AC**
13112 Magnolia Street
15 Apt. F13
Garden Grove, CA 92844

A C C U S A T I O N

16 **Acupuncturist License No. AC 12114,**

17
18 Respondent.

19
20 Complainant alleges:

21 **PARTIES**

22 1. Benjamin Bodea (complainant) brings this Accusation solely in his official capacity
23 as the Executive Officer of the Acupuncture Board.

24 2. On or about November 1, 2007, the Acupuncture Board of California (Board) issued
25 Acupuncturist License No. AC 12114 to Byung Mo Ahn, AC (respondent). The Acupuncturist
26 License was in full force and effect at all times relevant to the charges brought herein and will
27 expire on September 30, 2019, unless renewed.

28 ///

JURISDICTION

3. This Accusation is brought before the Board, under the authority of the following laws. All section references are to the Business and Professions Code (Code) unless otherwise indicated.

4. Section 4955 of the Code states, in pertinent part:

“The board may deny, suspend, or revoke, or impose probationary conditions upon, the license of any acupuncturist if he or she is guilty of unprofessional conduct.

“Unprofessional conduct shall include, but not be limited to, the following:

“(a) Using or possessing any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, or dangerous drug or alcoholic beverage to an extent or in a manner dangerous to himself or herself, or to any other person, or to the public, and to an extent that the use impairs his or her ability to engage in the practice of acupuncture with safety to the public.

“(b) Conviction of a crime substantially related to the qualifications, functions, or duties of an acupuncturist, the record of conviction being conclusive evidence thereof.

“...

“(d) Aiding or abetting in, or violating or conspiring in, directly or indirectly, the violation of the terms of this chapter or any regulation adopted by the board pursuant to this chapter.

“...”

5. Section 4956 of the Code states:

“A plea or verdict of guilty or a conviction following a plea of nolo contendere made to a charge which is substantially related to the qualifications, functions, or duties of an acupuncturist is deemed to be a conviction within the meaning of this chapter.

“The board may order a license suspended or revoked, or may deny a license, or may impose probationary conditions upon a license, when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order granting probation is made

1 suspending the imposition of sentence irrespective of a subsequent order under the provisions of
2 Section 1203.4 of the Penal Code allowing the person to withdraw his or her pleas of guilty and to
3 enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation,
4 complaint, information, or indictment.”

5 COST RECOVERY

6 6. Section 4959 of the Code states:

7 “(a) The board may request the administrative law judge, under his or her
8 proposed decision in resolution of a disciplinary proceeding before the board, to direct
9 any licensee found guilty of unprofessional conduct to pay to the board a sum not to
10 exceed actual and reasonable costs of the investigation and prosecution of the case.

11 “(b) The costs to be assessed shall be fixed by the administrative law judge and
12 shall not in any event be increased by the board. When the board does not adopt a
13 proposed decision and remands the case to an administrative law judge, the
14 administrative law judge shall not increase the amount of any costs assessed in the
15 proposed decision.

16 “(c) When the payment directed in the board's order for payment of costs is not
17 made by the licensee, the board may enforce the order for payment in the superior
18 court in the county where the administrative hearing was held. This right of
19 enforcement shall be in addition to any other rights the board may have as to any
20 licensee directed to pay costs.

21 “(d) In any judicial action for the recovery of costs, proof of the board's
22 decision shall be conclusive proof of the validity of the order of payment and the
23 terms for payment.

24 “(e) All costs recovered under this section shall be considered a reimbursement
25 for costs incurred and shall be deposited in the Acupuncture Fund.”

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28 ///

1 **FIRST CAUSE FOR DISCIPLINE**

2 **(Conviction of a Crime Substantially Related to the Qualifications,**
3 **Functions or Duties of an Acupuncturist)**

4 7. Respondent's Acupuncturist License No. AC 12114 is subject to disciplinary action
5 under section 4955, as defined by sections 4955, subdivision (b), and 4956 of the Code, in that he
6 has been convicted of a crime substantially related to the qualifications, functions, or duties of an
7 acupuncturist, as more particularly alleged hereinafter:

8 **August 19, 2016 Conviction**

9 8. On or about January 17, 2016, at approximately 3:50 a.m., Officer B.B. of Los
10 Alamitos Police Department was dispatched to the area of Katella Avenue and Bloomfield Street
11 regarding a male subject, later determined to be respondent, passed out in his car that was stuck
12 on the center median of Katella Avenue.

13 9. When Officer B.B. arrived on scene, he saw respondent's car stopped on the raised
14 center median of Katella Avenue. When Officer B.B. approached respondent's car on the driver's
15 side, he saw respondent sitting in the driver's seat, slumped over the driving wheel, and sleeping.
16 Respondent was the only occupant of the car.

17 10. When Officer B.B. knocked on the driver's side window, respondent woke up and
18 opened the door. When Officer B.B. asked him if he was ok and if he needed any medical
19 attention, respondent replied, "I was not driving. What happened?"

20 11. Respondent had bloodshot watery eyes, slurred speech, and the strong odor of an
21 alcoholic beverage emanating from his person. Officer B.B. had to grab respondent's left arm and
22 assist him out of the car. As they were walking over to the south curb of Katella Avenue, Officer
23 B.B. had to hold respondent up and assist him in walking forward.

24 12. Officer B.B. requested Orange County Fire Authority ("OCFA") to the scene to check
25 if respondent had any injuries or needed any medical assistance. When the paramedics who
26 arrived on scene had respondent stand in order to evaluate him, respondent had a heavy sway and
27 almost fell into them. Respondent could not stand on his own. The OCFA paramedics concluded
28 respondent was without injury.

1 13. When Officer B.B. asked respondent standard Driving Under the Influence (“DUI”) questions, respondent could not answer him. When Officer B.B. asked respondent simple questions to obtain basic information, respondent was still unable to answer his questions. Instead, respondent continued to tell Officer B.B. that he was not driving. At one point, respondent pointed at his car and stated, “That is my car,” and began to cry while stating, “I was good!”

7 14. When Officer B.B. asked respondent if he was not going to answer his questions, respondent said, “No.” When Officer B.B. proceeded to the standardized Field Sobriety Tests (“FSTs”) phase of the DUI investigation and attempted to have respondent perform them, respondent refused to perform any of the tests. Based on his stopping his car in the center median of a roadway, sleeping in the driver’s seat of his car, and his objective signs and symptoms of alcohol intoxication, respondent was arrested for violation of California Vehicle Code section 23152, subdivision (a) [Driving Under the Influence of Alcohol].

14 15. After being transported to the police station, respondent provided two breath samples for the evidentiary chemical test and blew a Blood Alcohol Content (“BAC”) of 0.19% and 0.18%.

17 16. On or about January 28, 2016, in the Superior Court of California, County of Orange, in the case entitled *The People of the State of California v. Byung Mo Ahn*, Superior Court Case No. 16WM01366, the Orange County District Attorney’s Office charged respondent with, in Count 1, a misdemeanor violation of Vehicle Code section (VC) 23152(a) [Driving Under the Influence of Alcohol], and in Count 2, a misdemeanor violation of VC 23152(b) [Driving with Blood Alcohol .08% or More]. As to Counts 1 and 2, it was alleged that respondent at the time of his driving a motor vehicle had BAC of 0.15% or higher. As to Counts 1 and 2, it was further alleged that respondent suffered a prior conviction of a misdemeanor violation of California Vehicle Code section 23152(b) [Driving with Blood Alcohol .08% or More] on May 15, 2007 in the Superior Court of California, County of Orange.

27 17. On or about August 19, 2016, in the Superior Court of California, County of Orange, in the case entitled *The People of the State of California v. Byung Mo Ahn*, Superior Court Case

1 No. 16WM01366, respondent pled Guilty to all counts, admitted the special allegations of his
2 prior DUI conviction and of having a BAC of 0.15% or higher, and was convicted of Counts 1
3 and 2, violating VC 23152, subdivisions (a) and (b). Respondent was sentenced to five (5) years
4 formal probation, 364 days in jail to be served by supervised electronic confinement (244 days of
5 which were stayed on condition of completion of DUI Court), ordered to attend and complete the
6 18 months Multiple Offender Alcohol Program as well as Victim Impact Counseling, and to pay
7 fines and fees. As part of his sentence, the Court designated respondent as a "Habitual Traffic
8 Offender."

9 **May 15, 2007 Conviction**

10 18. On or about April 2, 2007, in the Superior Court of California, County of Orange, in
11 the case entitled *The People of the State of California v. Byung Mo Ahn*, Superior Court Case No.
12 07NM03900, the Orange County District Attorney's Office charged respondent with, in Count 1,
13 a misdemeanor violation of Vehicle Code section (VC) 23152(a) [Driving Under the Influence of
14 Alcohol], and in Count 2, a misdemeanor violation of VC 23152(b) [Driving with Blood Alcohol
15 .08% or More]. As to Counts 1 and 2, it was alleged that respondent willfully and unlawfully
16 refused a peace officer's request to submit to, and willfully and unlawfully failed to complete, the
17 chemical test pursuant to California Vehicle Code section 23612.

18 19. On or about May 15, 2007, in the Superior Court of California, County of Orange, in
19 the case entitled *The People of the State of California v. Byung Mo Ahn*, Superior Court Case No.
20 07NM03900, respondent pled Guilty to all counts and admitted his BAC at the time of his driving
21 his car to be 0.12%. The special allegation regarding his refusal to submit to chemical test was
22 dismissed. Respondent was sentenced to three (3) years informal probation, 20 days of
23 community service in lieu of jail, ordered to attend and complete the 3 months 1st Offender
24 Program as well as attend Mothers Against Drunk Driving ("MADD"), and to pay fines and fees.

25 **SECOND CAUSE FOR DISCIPLINE**

26 **(Use of Alcohol to an Extent or in a Manner Dangerous to Himself, Others, or Public)**

27 20. Respondent's Acupuncturist License No. AC 12114 is further subject to disciplinary
28 action under section 4955, as defined by sections 4955, subdivision (a), of the Code, in that he has

1 used alcoholic beverages to an extent or in a manner dangerous or injurious to himself or others,
2 as more particularly alleged in paragraphs 8 through 19, above, which are hereby incorporated by
3 reference and realleged as if fully set forth herein.

4 **THIRD CAUSE FOR DISCIPLINE**

5 **(Violation of a Provision or Provisions of the Acupuncture Licensure Act)**

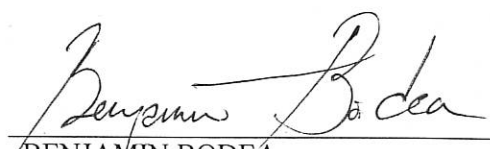
6 21. Respondent's Acupuncturist License No. AC 12114 is further subject to disciplinary
7 action under section 4955, as defined by sections 4955, subdivision (d), of the Code, in that he has
8 violated a provision or provisions of the Acupuncture Licensure Act, as more particularly alleged
9 in paragraphs 7 through 20, above, which are hereby incorporated by reference and realleged as if
10 fully set forth herein.

11 **PRAYER**

12 WHEREFORE, complainant requests that a hearing be held on the matters herein alleged,
13 and that following the hearing, the Acupuncture Board of California issue a decision:

- 14 1. Revoking or suspending Acupuncturist License No. AC 12114, issued to respondent
15 Byung Mo Ahn, AC;
- 16 2. Ordering respondent Byung Mo Ahn, AC to pay the Acupuncture Board of California
17 the reasonable costs of the investigation and enforcement of this case, pursuant to Business and
18 Professions Code section 4959; and
- 19 3. Taking such other and further action as deemed necessary and proper.
- 20
21
22

23 DATED: JAN 12 2018


24 BENJAMIN BODEA
25 Executive Officer
26 Acupuncture Board
27 State of California
28 Complainant

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